

VZCZCXRO7382

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ZNR UUUUU ZZH
P 120829Z MAR 09 ZDK
FM AMEMBASSY ASTANA
TO RUEHC/SECSTATE WASHDC PRIORITY 4877
INFO RUCNCIS/CIS COLLECTIVE 1344
RUCNCLS/ALL SOUTH AND CENTRAL ASIA COLLECTIVE
RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUEHBJ/AMEMBASSY BEIJING 0723
RUEHKO/AMEMBASSY TOKYO 1426
RUEHUL/AMEMBASSY SEOUL 0410
RUEAIIA/CIA WASHDC
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RUEKJCS/JOINT STAFF WASHDC
RHMFIUU/CDR USCENTCOM MACDILL AFB FL
RUEHAST/USOFFICE ALMATY 1303

UNCLAS SECTION 01 OF 02 ASTANA 000436

SENSITIVE
SIPDIS

STATE FOR SCA/CEN, DRL/PHD
STATE PLEASE PASS TO USAID

E.O. 12958: N/A

TAGS: [PGOV](#) [PHUM](#) [EAID](#) [KZ](#)

SUBJECT: GOVERNMENT OF KAZAKHSTAN HAS FIRST EVER DIALOGUE WITH CIVIL
SOCIETY ON NEW LEGAL STRATEGY

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11. (U) Sensitive but unclassified. Not for public Internet.

12. (U) SUMMARY: On February 23, USAID implementing partner Freedom House held a roundtable in Almaty with senior governmental officials and prominent non-governmental organizations working on human rights and the media. The round-table participants included a rare mixing of high-level government officials and civil society leaders. They discussed a new 10 year Legal Policy Strategy for Kazakhstan since the current Strategy is set to expire at the end of 2009. The new Strategy will serve as a road map for legislative reform initiatives over the next 10 years. The round-table participants stressed the need for the Strategy to reflect fundamental principles of international law in the field of basic human rights and freedoms. They highlighted a number of practical areas that should be reflected in the Strategy, and agreed that the next roundtable will take place at the end of April in Astana. END SUMMARY.

THE CONCEPT BACKGROUND

13. (U) The current Strategy was developed in 2002 and set out major new directions for the development of Kazakhstan's legal system. During subsequent years, a range of important legislative acts were adopted by the Government of Kazakhstan which promoted the development of civic and governmental institutions in accordance with the new political, social, and economic priorities of the country. These acts included the reform of major areas of national legislation such as constitutional, civic, financial, banking, tax, customs, criminal, and administrative law. Overall, 372 laws including 110 separate thematic laws were passed by the Government.

14. (U) As Kazakhstan seeks to further integrate into international markets and increase its influence on the world stage, the new 10 year Strategy will build on ideas from the current Strategy, but supplement it with regulations aimed at the further creation of a favorable environment for a strong market economy and the development of a solid investment base in Kazakhstan. Unlike the current Strategy, the new Strategy will also focus on criminal justice and judicial reform, international obligations and human rights, as well as on fighting governmental corruption, including a

draft law on lobbying.

THE ROUND-TABLE EVENT

15. (U) Demonstrating a rarely seen commitment to discussions with civil society leaders, high-level government officials attended the February 23 event and actively engaged their civic counterparts. The government participants included Igor Rogov, Chairman of the Constitutional Council, Kairat Mami, Chief Justice of the Supreme Court, Serik Baymagambetov, Chairman of the Parliamentary Committee on Legislative Affairs, Nurgali Belisbekov, Deputy Head of the National Security Committee, and Alexander Savankov, Vice Minister of Internal Affairs.

16. (U) Representatives of the most prominent NGOs attended as well, including the Charter for Human Rights, the Kazakhstan International Bureau for Human Rights, the Institute for Legal Policy, the Almaty Helsinki Committee, and the Adil Soz International Freedom of Speech Foundation. In addition to USAID, which was represented by its Democracy and Conflict Mitigation Office, participants from international organizations included Jeanette Kloetzer, Deputy Head of the OSCE Center, and Dmitri Nurmanov, OSCE Coordinator on Rule of Law Issues in Central Asia.

17. (U) During the roundtable, the participants unanimously agreed that Kazakhstani government decisions and actions must be in line with and supportive of the rights and freedoms guaranteed by Kazakhstan's Constitution. They also reached a consensus that legally permissible limitations on constitutional rights may only be invoked in extreme cases, and then only when sufficient justification for such limitations exist. In addition, the group agreed that the development of detailed criteria was necessary for circumscribing instances in which citizens' rights may be limited by governmental bodies. (COMMENT: Current Kazakhstani law allows government officials to interpret the law subjectively, opening the door to greater limitations on constitutional rights. END COMMENT.)

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18. (U) Participants also discussed the need for the Strategy to incorporate principles of non-discrimination, transparency of the decision-making process, and the swift and timely administrative or judicial review of appeals filed against court decisions. There was an important and lively discussion on the need for limitations on rights and freedoms to be proportional to the legal aim for which they are required. Civil society representatives were particularly pleased with this discussion, because they believe that the government has shown a bias towards measures that involve greater limitations on rights.

19. (U) The participants agreed that the Strategy should include a chapter dedicated to Kazakhstan's international commitments as well as the means that will be employed to implement the recommendations of the UN's Human Rights Council, the UN's Committee Against Torture, and the OSCE's Office of Democratic Institutions and Human Rights (ODIHR). They also discussed and decided to include in the Strategy positions regarding anti-discrimination legislation, legislation related to refugees, access to information, protection of privacy and personal data, and a law on the Ombudsman that would conform to the Paris Principles. (COMMENT: The Paris Principles set forth recommendations on the responsibilities of the human rights ombudsmen, including the means for their ensuring independence and the methods for their operation. END COMMENT.)

110. (U) Participants also discussed inclusion of proposals to improve criminal proceedings. There was agreement that all defendants should have a reasonable opportunity to present their cases under conditions that do not place them at a disadvantage vis-a-vis their adversaries. They also discussed provisions to further liberalize criminal legislation, including decriminalizing offenses that do not pose serious threats to the public.

111. (SBU) COMMENT: The roundtable was the first-ever platform to exchange ideas among government officials, non-governmental organizations, and the international community on this important

Strategy document. There was general agreement on the direction of the Strategy, and all participants seemed quite satisfied with the day's results. Since much of the Strategy is at odds with more restrictive laws currently winding their way through Parliament (such as the draft Internet law), it remains to be seen what will be the Strategy's end result. Regardless, it is an encouraging step that the Government of Kazakhstan was willing to listen and accept recommendations from civil society on the creation of laws in such sensitive areas. Moreover, to the best of our knowledge, this was the first time that a senior KNB representative sat down in a public forum with civil society NGOs. While the KNB representative may have sat in silence, his presence was ground-breaking. END COMMENT.

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